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PIOTR KAŻMIERKIEWICZ

ENPI'S PERFORMANCE IN EASTERN PARTNERSHIP STATES: LESSONS FROM THE CURRENT PERSPECTIVE FOR THE NEW BUDGET

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INSTITUTE OF PUBLIC AFFAIRS
EUROPEAN PROGRAMME

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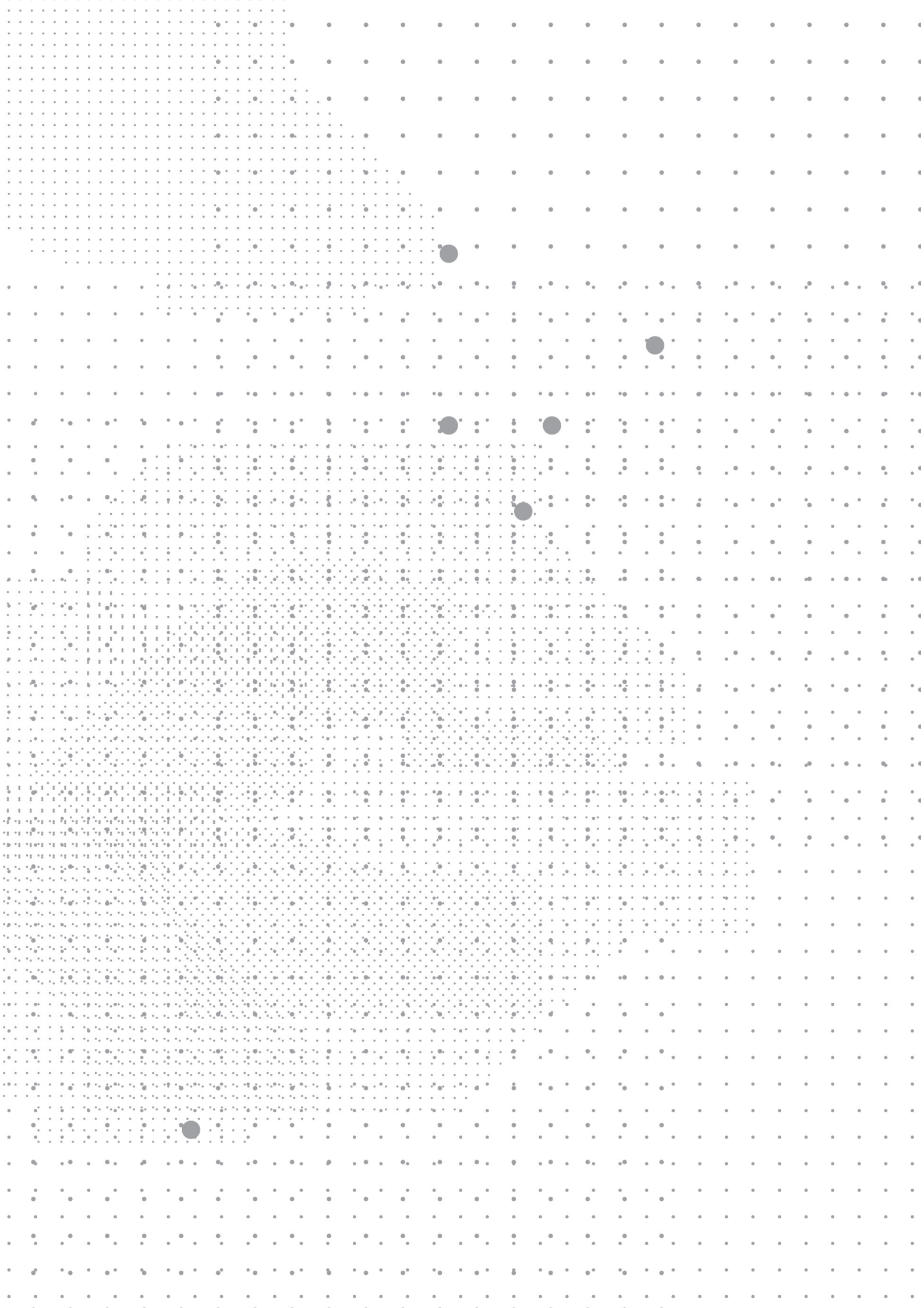
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Conclusions and recommendations

In its review of the implementation of the European Neighbourhood Policy, the EU has recognized the key shortcomings of the current scheme of financial assistance to Eastern Partnership countries. These are: insufficient incentives for reforms and the need to apply the “more for more” principle more consistently; limited impact of available funds due to their small volume, annual budgeting and thematic fragmentation; and inadequate mechanisms for engaging civil society actors in planning, implementing and monitoring the assistance. Interviews carried out in the Eastern Partnership countries with officials, experts and non-governmental organization activists corroborate these findings, leading to several recommendations that could help make EU assistance a more effective tool for realizing the Partnership policy objectives.

Budget support that was supposed to encourage systemic reforms in the Eastern Partnership states has largely failed to reach that objective. Review of the actual priorities of disbursed funds in 2008-2011 reveals that financing was scattered to numerous thematic areas, and virtually no common themes could be identified in the budget support among the beneficiary states. Reducing the number of priority issues is needed to give focus to both bilateral and multilateral aid. EU would do well to identify as primary those two or three sectors that are crucial for progress in the ongoing integration processes, such as the Deep and Comprehensive Free Trade Agreement and visa liberalization dialogue. Multilateral aid could concentrate only on those issues in which several beneficiary states have expressed interest, and cases of successful cooperation should be rewarded with dedicated funds for follow-up initiatives. As with bilateral assistance, EU might take into account the greatest interest among Eastern Partnership states in collaboration on economic issues and on visa and border management, applying this form of assistance to transfer the experience of the reform leaders to countries interested in sectoral transformation.

The European Commission’s proposals, simplifying the process of assessment and in effect reducing the time needed for programming assistance, are a step in the right direction towards lessening the bureaucratic burden. Introduction of the Single Support Framework and of multiannual budgeting perspective should enable the EU to run longer and larger infrastructural and technical assistance projects. In addition, raising the threshold beyond which reallocation of funds would need to be approved by the Member States should make the assistance more responsive to the changing needs on the ground. However, the proposed mechanisms for increasing transparency

and improving monitoring of assistance are not realistic as the national parliaments and audit bodies lack independence to carry out controlling function vis-à-vis the governments. On the other hand, mechanisms need to be established for obligatory inclusion of non-governmental organizations into the process of planning and verifying assistance objectives, and conditions should be created for the NGOs to be able to monitor allocating and disbursing funds (in the first place, by enforcement of the right to public information in the national legislations).

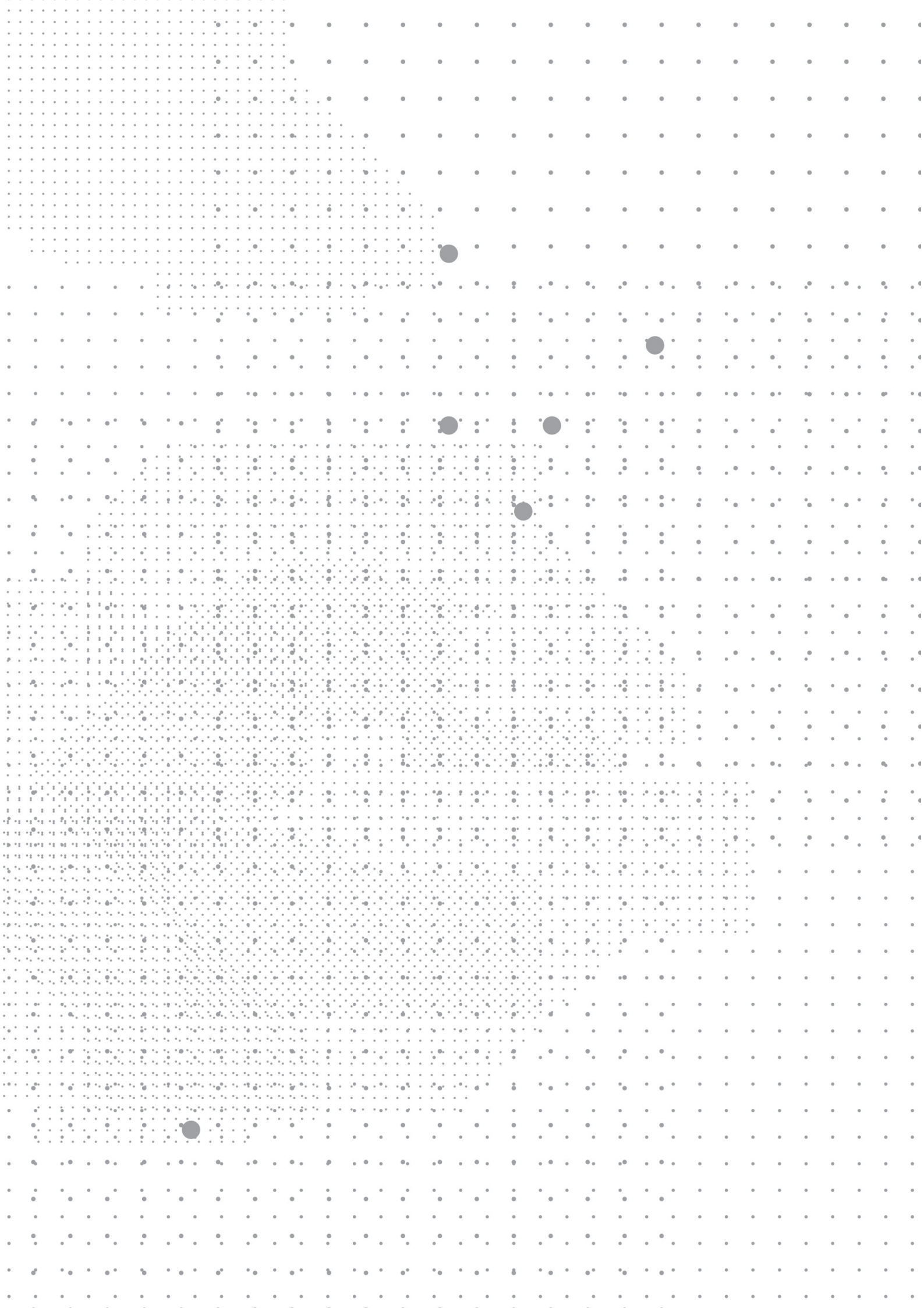
Launch of the Neighbourhood Civil Society Facility and of the European Endowment for Democracy indicates that support to civil society as an agent of democratization has become a substantive item on the ENPI agenda following years of relative neglect. These new instruments, complemented by the European Instrument for Democracy and Human Rights and the Non State Actors and Local Authorities thematic programme, have the potential to form a powerful package, able to strengthen civil society organizations organizationally and enable them to step up their advocacy efforts. EIDHR priorities are set forth without the need to seek approval from the partner countries, while the EED is an independent foundation which can also maintain distance from European institutions.

However, for the level of absorption of these funds among CSOs to increase, a number of barriers, identified by non-governmental activists and experts in the course of application, implementation and reporting the EU assistance, must be tackled. IPA research, carried out in Ukraine in late 2011, shows that especially CSOs from the more peripheral regions found the EU to be the least friendly donor in terms of locating information, clarity of procedures and conditions of application. Recommended measures include: accepting applications in the local language, more vigorous information campaigns clarifying the procedures, allocating a part of funds for institutional capacity-building (including organizational audits) and the introduction of multi-annual budgeting as well as opportunities for regranting.

Introduction

This report reviews the experience of implementing EU assistance in the region of the Eastern Partnership in the current financial perspective (2007-2013), suggesting ways in which it can be made into a more effective instrument for realizing political priorities of cooperation. It takes into account an assessment of the existing tools for the European Neighbourhood Policy issued by the European Commission and the European External Action Service in 2011. Finally, it offers a critical review of the proposal of a new neighbourhood financial instrument, highlighting the need to tackle three problems with the current system: excessive thematic fragmentation, inconsistent application of the “more for more” principle and insufficient volume of aid for civil society. These questions are all the more pertinent as negotiations are under way on the new EU budget for 2014-2020 and by the end of 2012 a stalemate has been observed in the progress of several Eastern Partnership states in reaching declared Eastern Partnership objectives, in particular democratization, rule of law and civil liberties.

The text draws on the combination of desk and field research undertaken by experts of the Institute of Public Affairs in 2011-2012. We wish to thank all the experts who provided their kind contribution in the course of the research, in particular: Jacqueline Hale of the Open Society Institute Brussels, Hrant Kostanyan of the Centre for European Policy Studies, Olga Schumylo - Tapiola of Carnegie Europe, Annar Mammadi of Election Monitoring and Democracy Studies Centre, Leonid Litra of IDIS Viitorul, Victoria Gumeniuk of Centre UA and Alex Oprunenco of Expert Group. Moreover, valuable insights have been collected from various officials representing EU institutions and the Member States as well as from consultants to the European Commission in the countries of the Eastern Partnership.



I. OVERVIEW OF EU ASSISTANCE TO EASTERN PARTNERSHIP STATES

1.1. Tension between the objectives of EU assistance to countries of Eastern Partnership

Since 2007, a single instrument, the European Neighbourhood and Partnership Instrument (ENPI), is used to finance the EU's activities in the Mediterranean region, Russia and six states of Eastern Europe and the Caucasus (Armenia, Azerbaijan, Belarus, Georgia, Moldova and Ukraine). This step brought under one umbrella the various geographical programmes (in particular, MEDA for the Mediterranean region and TACIS for Russia and the Eastern neighbours) and allowed for an increase in the total allocation by 32% up to 12 billion EUR for the period of 2007-2013.

Relations with countries in its neighbourhood demonstrate the tension between two sets of objectives of the EU's aid: development and democratization. When the volume of bilateral and multilateral assistance is combined, the European Union emerges as the world's largest donor, accounting for over half of all the ODA inflows in countries such as Belarus, Ukraine, Morocco, Algeria, Egypt or Syria. In its assistance to countries in the neighbourhood the EU is at the same time trying to effect a transformation effect, serving as a model of peaceful coexistence of states, multi-level democratic governance and economic integration. Pursuit of one set of goals (development) may hamper realizing the other (transformation) as happens in the case of setting the agenda for cooperation.

The development framework is based on the principle of ownership, which mandates that the target country sets the agenda and requires alignment of donor strategies to those favoured by the beneficiary. This approach was announced in the Paris Declaration on Aid Effectiveness of 2005 and reiterated in the Accra Agenda for Action of 2008, which called for strengthening country ownership of development. However, it became clear as early as the previous financial perspective (2000-2006) that some of the Union's eastern neighbours were interested in an enhanced format of cooperation that would provide for approximation of their legal and institutional systems to the *acquis communautaire*, enabling them to gradually take advantage of the EU's freedoms, especially tapping into the free market and gaining free movement. These objectives were subsumed into the Eastern Partnership framework, launched in May 2009, to cover six states in the eastern dimension of the European Neighbourhood Policy.

Already in June 2006 the EU declared in the *Communication on strengthening the European Neighbourhood Policy* that additional support within ENP should be made available to states willing to undertake reforms, while further incentives would be needed to encourage non-reformers. Following efforts of the German Presidency, the EU issued in December 2007 the document “Communication: A Strong European Neighbourhood Policy,” which introduced the principle of positive conditionality, defining the ENP as “a partnership for reform that offers «more for more»” so that a partner country’s deeper commitment to reform should result in the EU’s response in the form of fuller political and economic cooperation, complemented by “financial and technical” support.

The shift towards the ‘more for more’ principle was reflected in a change in the financing scheme within ENPI. While in the 2000-2006 financial perspective assistance was based on projects in which the European Commission contracted the implementation of projects to various intermediaries (non-governmental or international organizations and consultancies), since 2007 direct budget support involving transfers to state budgets of partner countries has been used for bilateral assistance. The new approach was designed to maximize country ownership of the agenda by seeking agreement with the beneficiary on the priority areas of reform. Moreover, it was expected that bilateral assistance would become more efficient thanks to elimination of a large part of the transaction costs.

Another initiative that was designed to promote the “more for more” principle and encourage systemic reforms in the Eastern Partnership countries was the launch of a dedicated instrument rewarding performance towards democratization, rule of law, solid regulatory environment and socio-economic reforms. Governance Facility was allocated 50 million EUR per year, and in 2007-2008 40 million EUR went to Ukraine while 17 million to Moldova. However, after a felicitous start, the instrument was eventually suspended as the progress towards the required reforms slowed down while the target countries found this path to be too complex. For instance, as many as 52 criteria could be taken into consideration to judge Ukraine’s progress, and soon it turned out that some of those—such as fight against corruption or promoting an independent judiciary—proved to be stumbling blocks in the country’s implementation of reforms. The case of the Facility became in fact typical for a large part of the EU’s mechanisms for support used within ENPI, which suffered from excessive fragmentation of thematic areas, inflexible arrangements for reallocation of funds and non-transparent monitoring mechanisms.

1.2. Fragmented bilateral assistance within ENPI

Launch of the ENPI under the 2007-2013 financial perspective was supposed to bring greater coherence to the EU's activities in the neighbourhood by pursuing both bilateral and multilateral forms of cooperation with partner countries. However, this happened only to a limited extent. Firstly, the ENP builds upon existing agreements between the EU and partner states as short- and medium-term priorities of political and economic reforms are still agreed jointly and included in bilateral Action Plans. Secondly, bilateral assistance in the form of direct support to governments constituted nearly three-quarters of the ENPI funding in the period of 2007-2010 (Fig. 1).

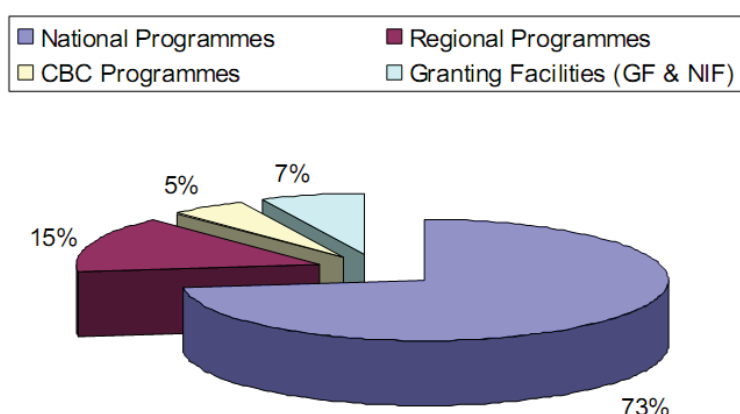


Fig. 1.
Allocation of ENPI
funding, 2007-2010

Source: Data
of European
Commission, 2010

Institutional arrangements for disbursing and monitoring bilateral assistance represent another barrier to ensuring coherent funding. The greater part of national allocations committed in the period of 2007-2010 was direct budget support, ranging from 50% in Azerbaijan, 60% in Armenia, and 70% in Georgia, Moldova and Ukraine. The funds are spent in accordance with the public finance principles of a given state as long as three basic conditions are met: there must exist a national development/reform plan, stable macroeconomic policy and a system for public finance management. Monitoring of the progress in fulfilling of the conditions is carried out by a monitoring committee consisting of officials from the EU and from the partner country.

Budget support is the preferred form of assistance used by the European Commission in the Eastern Partnership region. A combination of general and sectoral aid is made available. Under the first type, funding is provided for a broad range of reforms planned by the third-country government for a given period of time, for instance, implementation of the association agenda or action plans. The second type is sector budget support – only reforms in a given selected sector are eligible for support, e.g., reform of the energy sector or health sector.

The Eastern Partnership initiative was hailed as a strategic vision that would help advance the partner countries in their efforts to get closer to the EU and strengthen their institutional capacity for absorption of funds. However, review of the actual priorities of disbursed funds in 2008-2011 reveals that financing was scattered to numerous thematic areas, thus reducing opportunities for using this instrument as an incentive for fundamental systemic reforms. In three out of the five target countries, financing went to at least four areas, and virtually no common themes could be identified in the budget support among the beneficiary states (Table 1). Such fragmentation not only limits the allocations to individual fields, some of which (such as energy or environment) require significant outlays, but also reduces the impact that more focused aid might have.

Country	Thematic areas	Commitments (2007-2010) million EUR	% funds disbursed (2008-2011)
Armenia	Vocational reform; Justice service Multi-sector program related to negotiations on Association Agreement and DCFTA	65	47
Azerbaijan	Justice, Agriculture and administrative, Energy,	40.5	27
Georgia	Public finance management; Regional development, Criminal justice, Emergency response – implementation of action plan	174	74
Moldova	Economic stimulation in rural areas Water supply and sanitation – large systems Environmental strategy Health sector	147.5	77
Ukraine	Trade Energy Environment Transport Border management	344	67

Table 1.
Budget support to
Eastern Partnership
states

Source: Data
of the European
Commission,
October 2011

The impact of EU budget support has been limited as in three of the five targeted countries it represented merely a fraction of GDP, ranging from 0.03% for Azerbaijan, 0.1% for Armenia and 0.2% for Ukraine. The share in GDP was actually indicative of a capacity for absorption that proved to be lower than expected. In fact, only slightly more than a quarter of committed funds were disbursed in Azerbaijan and less than half of the allocation was used by Armenia in 2008-2011. It is significant that absorption was the highest in the two countries (Moldova and Georgia) that displayed greater commitment to

administrative reform and enjoyed higher levels of civil liberties and lower rates of corruption.¹

Contrary to the original expectations, the Eastern Partnership priorities (among them economic integration and visa regime liberalization) have overall not taken precedence over the development priorities (as seen in Table 1 above). The bulk of the budget support to Moldova and Ukraine addressed socio-economic issues. For instance, in Moldova, the country with the best absorption of funds, the EU concentrated on the reforms of the health and environment sectors, rural areas and the system of water supply. In Ukraine support was given for reforms of the energy, environment and transport sectors. In contrast, only a small share of aid was committed to the Partnership priorities in the field of governance and rule of law (such as the reform of the courts, public administration and fighting corruption). Judiciary reform was only featured in the three states of the Caucasus while reform of public finance gained prominence only in aid to Georgia. Although three states of the Partnership are engaged in dialogue with the EU on liberalization of visas, questions of border management were included in bilateral assistance priorities in Ukraine only.

Impact of the budget support is hard to estimate in view of its low scale and short timespan. The European Commission's report points to some local successes in the implementation of budget support in the Partnership region. New institutions were set up—such as twelve vocational training centres in Armenia and the State Agency for Renewable Energies in Azerbaijan, and regional development agencies were set up in cooperation with Denmark and Sweden. Assistance granted for the reform of the judiciary in Georgia helped raise the age of minors' criminal liability from 12 to 14 years of age. In turn, support for the health sector in Moldova made it possible to cover 80% of the population with mandatory health insurance.

1.3. Limitations of multilateral assistance

While the Eastern Partnership largely continues the framework of assistance applied in the European Neighbourhood Policy, it introduces mechanisms for multilateral cooperation. Emphasis has been placed on issues related to democracy, good governance and stability, economic integration and convergence with European Union policies, energy security and contacts between people. To facilitate these political objectives in the dialogue with the partner countries, high-level meetings were scheduled, involving heads of states (every two years) and ministers of foreign affairs (every year). In addition, platforms for contacts among members of parliament, diplomats

¹ According to the Transparency International Corruption Perceptions Index, Georgia is at 68th place, Moldova – 105th, Armenia – 123rd, Belarus – 127th and Ukraine and Azerbaijan at 134th (out of 178). See http://www.transparency.org/policy_research/surveys_indices/cpi/2010/results

and civil society representatives were set up. Four multilateral platforms were established to deal with crucial issues of cooperation (democracy, good governance and stability, economic integration and convergence with EU policies; energy security; contacts between people) (Fig. 2).

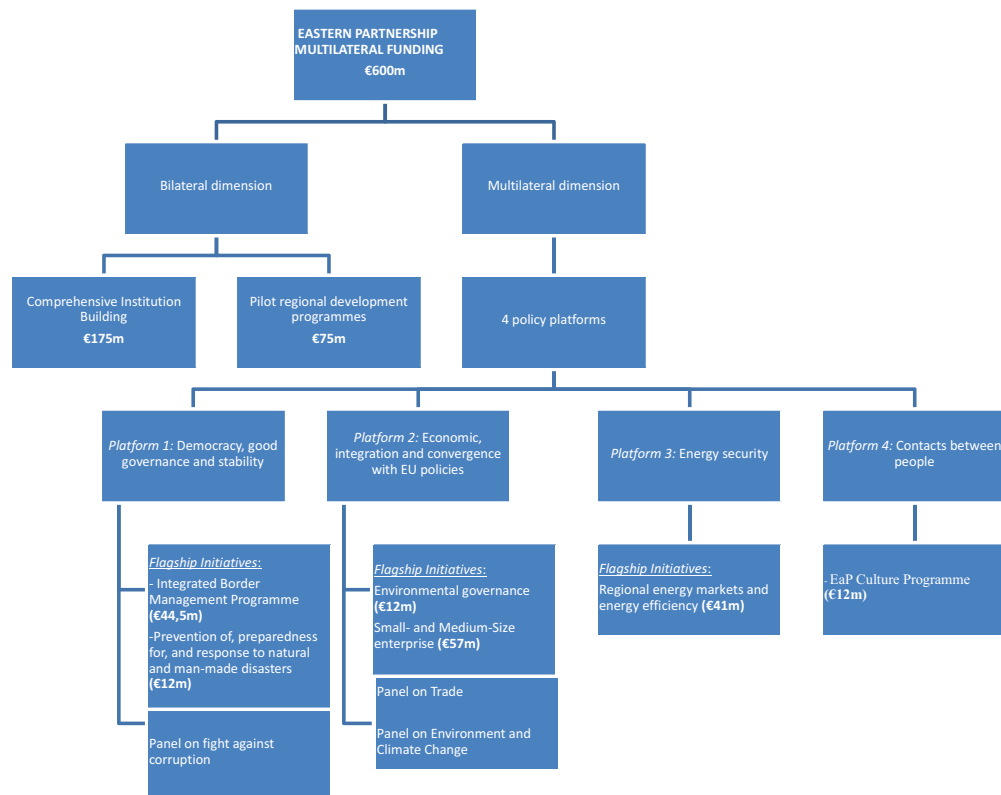


Fig. 2.
Eastern Partnership
multilateral
cooperation scheme
(2013-2020)

The multilateral cooperation scheme was launched with an additional dedicated 600 million EUR. However, the effectiveness of this funding is limited due to a similar host of factors as with the bilateral funds. Division of the funds into so many thematic areas makes it difficult for the EU to ensure effective implementation and monitoring. Dispersal of funds among so many areas reduces the volume available to individual projects and in effect prevents launching larger follow-up projects to pioneer initiatives. Use of funds also varies according to the thematic area, reflecting uneven interest of individual states in cooperation. Interest is highest in cooperation on the economic platform (the greatest number of specific panels) as well as visa liberalisation and border management. For instance, two groups of states have emerged to share experience on association agreements and agreements on the Deep and Comprehensive Free Trade Area (Ukraine and Moldova; Georgia and Moldova). Additionally, as a result of the initiative of the Polish Presidency, sectoral cooperation in economic and visa issues has been developed. During the Presidency, a number of ministerial meetings were organized, for instance on issues related to economy, infrastructure, customs service, statistical systems and food safety.

1.4. Assistance to civil society

Although support to civil society is a priority in several bilateral Action Plans with Eastern Partnership countries and an objective of the entire initiative, this issue has so far received a small share of ENPI funding. This only began to change as the EU responded to the Arab Spring by launching the Neighbourhood Civil Society Facility in September 2011, a component of the Instrument that would express “shared commitment to respecting universal values, international human rights standards, democracy and the rule of law.” In November 2012, after some delay, funding was provided for the European Endowment for Democracy, which complements the Facility as an independent foundation.² However, an increase in funding for civil society and in defence of human rights will not bring about the desired impact unless such barriers to access to funds as insufficient information and over-bureaucratization are tackled.

In 2007-2009, the share of funds allocated to the area of “Government and Civil Society” in all six Eastern Partnership countries totaled 65.5 million EUR (Fig. 3). This represents a mere 7% of the national allocations within ENPI. Even this modest funding was not easily accessible for non-governmental organizations. An analysis of grants disbursed in that line that was carried out by the Institute of Public Affairs showed that only one-fifth of the funds reached NGOs. Strengthening of democratic institutions or protection of civil rights received relatively little attention, while the bulk of the assistance went to the improvement of the condition of groups threatened with social exclusion (e.g., refugees, disabled people, people living in rural areas, women) and to voters’ education and monitoring of elections.

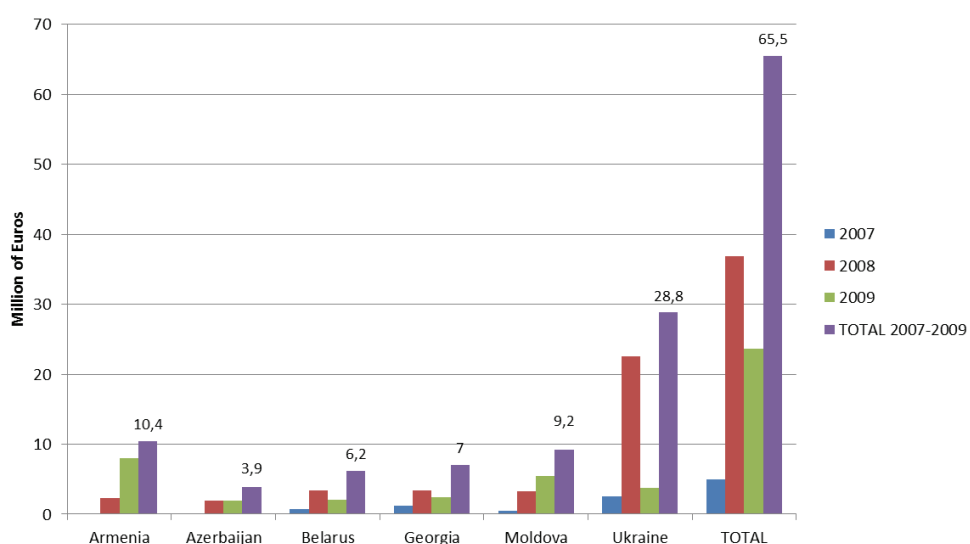


Fig. 3.
Volume of external
EU assistance under
line “Government
and Civil Society”
(in millions EUR)

² European Commission, Memorandum, “The European Endowment for Democracy”, Brussels, 12 November 2012, available at: http://europa.eu/rapid/press-release_IP-12-1199_en.htm

Non-governmental organizations in the Eastern Partnership states find EU assistance hard to access and absorb as the interviews conducted by IPA experts in regions of Ukraine show. When asked to rank EU assistance against other donors, recipients found it to be the worst in terms of ease of locating information, clarity of procedures and conditions of application.³ Results of the research indicate first of all that the EU assistance offer fails to take into account the low institutional capacity of NGOs in these countries. Few civil society organizations are able to handle projects with budgets exceeding 100,000 EUR, which are typical for EU-funded programmes. More organizations could take advantage of this assistance if some funds were dedicated to the enhancement of their institutional capacity and if larger organizations could be allowed to engage in re-granting. Smaller entities from outside major cities also find application procedures to be daunting, requiring proficiency in formal English and experience of handling donors' requirements. Interviews in some regions of Ukraine show that the coverage of information on the EU's available support to CSOs is uneven, leaving out some areas.

Insufficient involvement of civil society stands in the way of realizing some of the fundamental objectives of EU assistance: adjusting aid priorities to local needs and ensuring participation of representatives of groups in need in planning, implementing and monitoring of aid. Unfortunately, the format of talks on the planning of assistance priorities in budget support has so far left out non-governmental organizations, rendering them unable to provide input into the Action Plans. The need for establishment of mechanisms for formal consultations with civil society organizations in the scheme of bilateral EU assistance is clear given the absence of institutional solutions providing for genuine dialogue between the partner countries' governments and the third sector.⁴ Non-governmental organizations have so far not been consulted in the process of monitoring of disbursed assistance either, which results in low transparency and at times a mismatch between local needs and the priorities of programmed assistance.

Those organizations that do decide to seek EU financing are faced with the difficulty of fitting their needs to match the objectives of several programmes which were designed independently from one another and whose procedures differ. Non-state actors may either seek assistance from the dedicated European Instrument for Democracy and Human Rights (EIDHR), concentrating on human rights, electoral issues and development of free media) or from the *Non State Actors and Local Authorities* thematic programmes, which offer

³ The results of the research *Strengthening the capacity of Ukrainian NGOs to absorb international assistance – review of institutional gaps and needs for intervention*, November 2011. See I. Bekeshkina, P. Kazmierkiewicz, *Making Ukrainian Civil Society Matter*, IPA: Warsaw 2012.

⁴ At the same time, whenever the EU chooses to do so, it proves that it can be effective in stimulating the dialogue between the government and the non-governmental side. For instance, the importance of involving civil society was reinforced in the EU's strategy of exerting pressure on the Ukrainian government to hold a series of consultations with civil society organizations in 2010 so that the input from the third sector would be considered in the national strategy of environmental protection.

support to raise organizational capacity of NGOs. The important feature of EIDHR assistance is that it can be implemented without the agreement of the partner governments and is open to organizations and individuals working in defence of “human rights, justice, the rule of law and the promotion of democracy.”⁵

Apart from these two special instruments, CSOs are eligible for EU assistance to realize sectoral activities under the Development Cooperation Instrument (covering such Partnership objectives as migration policy, environmental protection or food safety) and the ENPI (cross-border and regional programmes).⁶ EU research programmes, cultural programmes and youth exchange schemes are, to some limited extent, available to beneficiaries from the Partnership region.⁷ What is important to note is that, as part of the multilateral cooperation introduced by the Eastern Partnership, some very limited funds are designated for programmes concerning non-governmental cultural cooperation.⁸

The review of the neighbourhood policy in 2011 highlighted the need to boost support to democracy on both the southern and eastern flanks. Two new initiatives were launched since then, one specifically in response to the Arab Spring (the Civil Society Facility) while the other (the European Endowment for Democracy) was proposed by Polish Foreign Minister Radosław Sikorski and taken up by High Representative Catherine Ashton. With the budget of 22 million EUR carved out of ENPI for 2011-2013, the Neighbourhood Civil Society Facility aims at involving non-state actors in the reform process in the countries of the neighbourhood through three dedicated components. In the first component, the EU proposes trainings and exchanges of good practice to enhance their effectiveness as drivers of change on the national level. In the second component, the EU is committed to involving CSOs in multilateral projects as a supplement to existing thematic programmes. Finally, the third component seeks to engage non-state actors in implementing bilateral programmes.⁹

Unlike the Facility, which is an evolutionary development of ENPI seeking to engage NGOs into existing programmes (both bilateral and multilateral), the European Endowment for Democracy¹⁰ is intended to target those to whom the assistance had so far been unavailable for procedural or political reasons: “journalists, bloggers, non-registered NGOs, political movements (including

⁵ More on EIDHR at the website: http://ec.europa.eu/europeaid/how/finance/eidhr_en.htm

⁶ See more in: E. Kaca, P. Kaźmierkiewicz, *Eastern Promises: Supporting Civil Society in the Eastern Partnership Countries*, IPA: Warsaw 2010.

⁷ European Union Programmes and Instruments facilitating mobility between the EU and Eastern Partnership Countries – and other related cooperation programmes http://eapmobility.pl/static/documents/Publication_EP_ENG.pdf

⁸ Programme for EP culture has been made available, amounting to 8.4 m EUR.

⁹ European Commission, Memorandum, “EU Response to the Arab Spring: the Civil Society Facility”, Brussels, 27 September 2011, available at: http://europa.eu/rapid/press-release_MEMO-11-638_en.htm

¹⁰ European Commission, Memorandum, “The European Endowment for Democracy”, Brussels, 12 November 2012, available at: http://europa.eu/rapid/press-release_IP-12-1199_en.htm

those in exile or from the diaspora), in particular when all of these actors operate in a very uncertain political context.” The Endowment took some time to become operational, but the European Commission’s seed allocation of 6 million EUR, announced on 12 November 2012, should provide impetus to this much-awaited initiative, filling the glaring gap in the system of assistance in place so far. The budget is admittedly small, but it should be sufficient for the activities that are initially planned: “conferences, seminars, publications, networking events, training courses.” Another novelty is the fact that the Endowment is to operate as a private foundation, established in Belgium, and independent from the EU so that its objectives and activities could remain autonomous. Time will tell to what extent the EED will manage to evolve into a recognizable entity whose mission will complement the EU’s existing tools, such as EIDHR or the Civil Society Facility.

II. ASSESSMENT OF CURRENT SUPPORT AND PLANNED INITIATIVES

2.1. Evaluation of support within the Eastern Partnership framework

Although direct support has been available to governments of Eastern Partnership states for five years, it is not easy to evaluate its impact. As experts and non-governmental organizations stress, no information on the conditions of granting this assistance and on its effects is publicly available. Enforcement of the right to access to public information in the Partnership countries is limited as seen in the case of Ukraine where the government administration regularly refuses to give information about assistance to non-governmental organizations. Moreover, interviews confirm that information is not readily available from the European Commission, which appears to encounter problems in collecting information on the progress of the states receiving this assistance. Even Member States receive only very general progress reports during the meetings of the Committee of the European Neighbourhood and Partnership Instrument.¹¹

So far, budget support has only been evaluated in a comprehensive manner in a report of the European Court of Auditors covering Armenia, Azerbaijan and Georgia.¹² The Court pointed to several shortcomings in the way the EU funds were disbursed. Firstly, the report found the impact to be limited, suggesting the need to deploy a wider range of aid activities including technical assistance and support for the non-governmental sector. In addition, it found the two-year period of programming to be too long, which delayed the actual implementation of projects. Moreover, the Court criticized the process of selecting priorities for the dominant position of the European Commission and insufficient involvement of the local stakeholders. The recommendations were for the most part upheld by the Council, which requested that the Commission should consider them in its review of the neighbourhood policy (see below).¹³

The Court's criticism of the system of evaluating the areas of support has been echoed in the interviews with experts working in all the Partnership

11 The Committee consists of representatives of the Member States and provides opinions on the activities of European institutions under the European Neighbourhood and Partnership Instrument

12 European Court of Auditors, *Is the new European Neighbourhood and Partnership Instrument successfully launched and achieving results in the Southern Caucasus?*, Special Report no 13, 2010

13 Council conclusions on Special Report 13/2010 by the European Court of Auditors concerning the results of the European Neighbourhood and Partnership Instrument (ENPI) in the Southern Caucasus 3086th FOREIGN AFFAIRS/TRADE Council meeting Brussels, 13 May 2011 http://www.consilium.europa.eu/uedocs/cms_Data/docs/pressdata/EN/foraff/121979.pdf

countries. In their view, the process is not optimal as the EU has an inordinate influence on the selection of the areas of support. EU officials and EU-commissioned experts play the central role in the assessment of the partner states' capacity for sectoral reforms. In the course of interviews, objections were raised to the current system of evaluations prepared by external EU experts. The monitoring is carried out as part of the meetings between officials from the EU and the ministries of a given country. The EU Delegations in the Partnership countries have very few employees dealing with analysis of the political situation in a given country, making it impossible to carry out regular monitoring. One area of concern is many experts' lack of thorough knowledge about the context of the situation in a given country, as in most cases they are hired on short-term contracts. Local stakeholders are also wary of what they perceive as the experts' reluctance to offer critical assessment.

The European Commission has also acknowledged the shortcomings of its system of monitoring the progress in implementation of reforms. Until 2011, assessment was carried out by the EU at the level of projects and published in the form of Progress Reports. This type of assessment did not provide a systematic and comprehensive assessment of progress made by the countries towards the overall Partnership objectives. Thus, as a step towards greater application of the "more for more" principle in bilateral funding, the European Commission in its review of the ENP supplemented its methodology of country evaluation with five criteria covering the area of democracy and good governance. Among the proposed criteria, the Commission listed free and independent elections; freedom to form associations, freedom of speech and assembly and freedom of media; independent judiciary and law-making and the right to fair trial; fighting corruption; security and enforcement of law with respect to sectoral reforms (including police) and democratic control over the armed forces. The Commission is also planning to use the indices *World Bank Governance* in a more systematic way, as well as perhaps the *Economic Intelligence Indicator* and the reports of independent organizations monitoring progress in the process of democratization and good governance, such as for example, Transparency International. This methodology will be presented to the Member States and will be subject to consultation with the non-governmental sector in 2012.

2.2. Incentives for reforms in the current financial perspective

The use of a single financial instrument, ENPI, for the two regions of the EU's neighbourhood has come under criticism for failure to spur the partner countries to undertake comprehensive reforms of their governance and to respond to the interest of some states in closer integration with the EU. The EU Member States that had been instrumental in launching the Eastern Partnership initiative, Poland and Sweden, proposed that the ENPI should

be divided into two parts, one for the Mediterranean and the other for the Eastern neighbourhood.¹⁴ The European Commission has been sceptical about division of the instrument, being concerned that any change might provoke a debate among the Member States as to the reallocation of funds between the beneficiary states and between the two regions. The Commission is not expected to favour the establishment of a separate instrument as it upheld the unity of ENPI in its review of neighbourhood policy in 2011.

Another avenue for ensuring that the financial framework serves to facilitate strategic objectives of the Eastern Partnership could be the harmonization of priorities of various neighbourhood funding programmes with those of the Partnership Platforms. Multilateral cooperation could be stimulated if various financial tools could be used by partner states for the realization of their strategic objectives. However, in many cases although the thematic scope of certain bilateral and multilateral programmes overlaps, current procedures make reallocation of funds time consuming and politically difficult, requiring the consent of Member States. For instance, a significant rise of funding for multilateral cooperation could be achieved if such activities could be funded from the bilateral cross-border cooperation programmes and the Regional Programme East,¹⁵ which together account for around one-fifth of the ENPI budget (approximately 930 million EUR). Currently, however, the priorities of the Regional Programme East are incompatible with those of the Partnership thematic platforms while the Cross-border programmes are not consistent with the multilateral platforms of the Eastern Partnership.

The shift from project-based support to transfers to national budgets in the current budget perspective was supposed to encourage systemic reforms in countries of the Eastern Partnership. However, the current system fails to give the European Commission instruments for exerting effective pressure on the beneficiaries. This is evident firstly in the arrangements for selecting areas of assistance and secondly in the practice of allocating and withdrawing funds.

The reform areas to receive budget support are determined jointly by officials from the EU and from the relevant Eastern Partnership countries. Thus, effectiveness of assistance crucially depends on the partner governments' willingness to undertake reforms as well as their administrative capacity. However, precisely these issues (such as the reform of the judiciary, administration, public finance or fighting corruption) remain stumbling blocks between the two sides. None of the countries of the region is classified

14 This proposal was presented in the letter of ministers Carl Bildt and Radosław Sikorski in October 2010, accessed at: <http://www.msz.gov.pl/files/docs/komunikaty/list-rscb.pdf>

15 See http://ec.europa.eu/world/enp/pdf/country/2011_enpi_nip_regional_east_en.pdf

as a free country,¹⁶ and in some cases we are witnessing a deterioration of democratic standards (Ukraine since 2010).¹⁷

Even with the Commission's drive towards inclusion of elements of democracy and human rights in the bilateral agenda, making the partner countries' governments accountable for implementation of political reforms is likely to remain very difficult. So far, the eastern partners' reluctance to take on explicit obligations in this area has forced the EU to avoid detailed formulations of the objectives of cooperation. Instead, the criteria in the annual Action Plans were defined broadly, and indicators of success fell short of serving as measures of actual progress towards "deep democracy". This arrangement, which did not set clear criteria for withdrawing funds in case of deterioration of democratic and governance standards, worked for both sides. The EU did not have to take decisions that could prove divisive amongst the Member States with their varying interests vis-à-vis individual partner governments. Strong negative assessment by a partner country could also be received by the EU Member States as evidence of the Commission's failure to properly administer the funds. Making the conditions of assistance more restrictive might hurt absorption capacity or even result in the partner country's refusal to use such funds.

Interviewed EU officials themselves admit that the ambiguous nature of the relations between the Union and the Eastern Partnership states (unlike the case of the Western Balkans, these countries have not been offered membership prospects) makes placing demands on them virtually impossible. For the time being, the eastern partners justify their unwillingness to undertake any specific obligations by pointing out the lack of a more definite political perspective (i.e., membership) on the part of the EU.

In fact, the mechanisms of allocating and withdrawing funds do not serve as a motivating function either. The EU has not decided to terminate funding altogether to any of the current beneficiaries in the Eastern Partnership, and has only exceptionally resorted to freezing transfers. The most notable example was the joint action with the World Bank when a tranche of funding was not released in protest over amendments that the Ukrainian government introduced to the law on public procurement in early 2011. However, even that action became successful only when it was publicized in the Ukrainian press¹⁸ as the mere fact of freezing the funds had proved insufficient to bring President Yanukovich into compliance with EU demands.

Fixing allocations to beneficiaries also reduces pressure on the partner countries to compete for funds. As the European Commission is interested in ensuring maximum spending of the allocated funds so as to demonstrate to the

¹⁶ *Freedom in the World 2011*, Freedom House – http://www.freedomhouse.org/images/File/fiw/FIW_2011_Booklet.pdf [accessed 17 September 2011].

¹⁷ The situation in Ukraine is a subject of the IPA's study *Making Ukrainian Civil Society Matter*, Warsaw 2012.

¹⁸ Y. Onyshkiv, *Disappointed with corruption, EU holds up aid to Ukraine*, "Kyiv Post" <http://www.kyivpost.com/news/nation/detail/98287/>

Member States proper budgetary care, the partner governments are virtually certain to receive the assigned amounts. A welcome change was the launch in September 2011 of a thematic programme dedicated to socio-economic development and democratic transition in the Mediterranean region. The *Support to Partnership, Reform and Inclusive Growth (SPRING)* Programme, with the total budget of 350 million EUR, enables the Commission to take swift funding decisions independent of the Member States. Such dedicated funds could be used by the Commission to react to political changes in the eastern neighbourhood as well, implementing the “more for more” principle to a greater extent than has been the case with the Governance Facility. Recognizing the success of the SPRING initiative, the Commission adopted the *Eastern Partnership Integration and Cooperation (EaPIC)* Programme within ENPI on 26 June 2012.¹⁹ The Programme is relatively small, with a budget of only 130 million EUR, and is not meant to replace but rather “complement” the EU’s ongoing initiatives in a given country.

Considering that EaPIC is a very fresh initiative, it is too early to judge to what extent it will represent a qualitatively different solution from the Governance Facility, which was considered to have a very limited impact. However, some aspects of the programme give grounds for hope that it could serve as a tool reinforcing the EU’s push for democracy and human rights in the relations with countries in the eastern neighbourhood. First of all, only those countries that “make progress in reforms for democracy, respect of human rights and the rule of law” are eligible. Secondly, the prodemocracy agenda is integrated with sectoral support, stipulating that “support will be built up for sector reforms that are conducive to deep democracy and sustainable and inclusive development,” particularly justice, anticorruption and strengthening national democratic institutions. According to the Commission’s announcement, the success of this initiative could lead to wider application of this “more for more” mechanism in the overall ENPI scheme for the next financial perspective.

2.3. The Commission’s proposals for the shape of ENPI in the new financial perspective

In the new financial perspective 2014-2020, the European Commission proposes to apply in a more consistent manner the “more for more” principle to reward reforming countries. The proposal was formulated in the joint communication of the European Commission and the European External Action Service on the review of the European Neighbourhood Policy of 25 May 2011. The Commission proposed that decisions on the volume of allocations would be based on the review of the progress towards reforms in the period

¹⁹ European Commission, Memorandum “Enhanced cooperation in the Eastern Partnership: the Eastern Partnership Integration and Cooperation (EaPIC) Programme”, Brussels 26.06.2012, available at: http://europa.eu/rapid/press-release_MEMO-12-491_en.htm

of 2010-2012. Consequently, reformers would be rewarded with more funds to carry out programmes of socio-economic and institutional development as well as ones aiming at facilitation of mobility. Another incentive would consist of wider access to European Investment Bank loans and to microfinancing (subject to more specific criteria).

The “more for more” principle has been reaffirmed by the Council and set forth in the proposal for the financial regulation of the neighbourhood instrument. The European Commission proposes that in the new financial perspective the proportion of funds spent following the “more for more” principle should be increased to the level of 20% of the neighbourhood instrument budget, and that the remaining 80% should be set aside for the fixed national allocations. Given that the EC proposal envisioned a 40% rise in the neighbourhood funding, this could potentially turn the thematic programmes into a significant financial incentive.²⁰ However, this proposal is jeopardized as serious budget cuts are envisioned in the compromise proposals, and an increase in the volume of financing for thematic programmes has been regularly resisted by the Member States, which seek to continue having a say on the division of those funds.

Member States are not likely to oppose another Commission proposal which aims at matching assistance to the needs of the beneficiaries. To accelerate the process of programming and disbursing of funds, the Commission proposes halving the programming period to approximately one year through the simplification of the assessment mechanism. Under the proposal, thanks to the introduction of a single frame of reference for assessment (either the action plan or the association agenda) and reduced input from the issued opinions, the programming period is going to be significantly shortened. The proposed Single Support Framework is going to replace the current complex and time-consuming system in which as many as three documents are assessed: Action Plans, Country Strategy Papers and National Indicative Programmes.

In turn, greater flexibility in funding allocations is expected if two other proposals are accepted. Firstly, adopting a multiannual budgeting perspective would cut the decision-making time by eliminating repetition of the current annual budget procedures. While the new procedure would mainly be applied to technical assistance, the Commission is considering other areas for its introduction. Absorption of funds could be additionally raised if in line with another Commission proposal opportunities to shift funds between lines were extended under the so-called *Special Measures*. The new scheme would raise the limit above which the Commission would need to seek approval from the Member States for any shift of funds within instruments from 10 to 40 million EUR.

20 Access at http://ec.europa.eu/world/enp/docs/2011_prop_eu_neighbourhood_instrument_reg_en.pdf

24 [ENPI's performance in Eastern Partnership states: lessons from the current perspective...](#)

The European Commission has acknowledged the limitations of the current procedures for monitoring progress in the implementation of reforms in its plans for revising the system of budget support. In response to the European Court of Auditors' criticism, it outlined a number of changes presented in the Communication of October 2011.²¹ To increase budget transparency and strengthen control mechanisms, the Commission proposed that beneficiary countries would be obliged to make details of the assistance available to the public, providing "entry points" for oversight of the decision-making system. Another controlling mechanism would consist in the greater involvement of national parliaments and supreme audit bodies. Under the proposal, a substantial part of the budget support would go to national parliaments (via the central bank) under the condition that the parliamentary body (e.g., economic policy committee) would monitor the government's progress in the implementation of reforms. Similarly, supreme audit bodies could receive a chunk of budget support on the condition of more vigorous and in-depth auditing activity. According to the Commission, the greater involvement of the parliaments and audit bodies should establish a system of checks and balances, leading to greater oversight of the disbursed aid while maintaining the principle of local ownership. However, this proposal appears flawed on two grounds. Firstly, most observers find the Commission's assumption that these bodies would be able to effectively oversee the government's spending to be unrealistic considering that neither the parliaments nor the audit bodies in most Eastern Partnership countries have the independence necessary to enable them to genuinely exercise their controlling function. Secondly, the proposal limits the involvement of non-governmental organizations to merely accessories to the Parliament's oversight, failing to provide them with an independent mandate.

A more fundamental shortcoming of the EU's proposals is the imprecise definition of the terms under which conditionality should be applied in case of unsatisfactory progress in reforms or their outright reversal. The Commission has not formulated criteria for reducing or terminating its assistance to recalcitrant countries, something which is particularly striking given the clear impasse with many Eastern Partnership states on questions of democracy and human rights. The Commission's unwillingness to establish uniform criteria goes beyond the mere technical argument that the eastern neighbourhood is a heterogeneous region, encompassing countries with different political regimes and differing interests in closer integration with the EU.

Interviews with EU officials revealed that the Commission harbours concerns regarding the negative consequences of a possible termination or reduction of funding. Citing the case of Belarus, they pointed out that it is very difficult to renew relations with a country after the withdrawal of assistance,

21 *Communication on future approach to EU budget support to third countries*, Brussels 13.10.2011, COM(2011) 638 final, access at <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2011:0638:FIN:EN:PDF>

making progress virtually impossible even in areas of mutual benefit (such as liberalisation of the visa regime). Another problem is that failure to disburse funding limits the available resources for neighbourhood assistance as the unspent funds are returned to the general EU budget.

Another concern regarding the application of negative conditionality is the impact that such a move would have on the civil society in the Eastern Partnership states. Delaying or withdrawing rounds of assistance in the socially-relevant sectors of education or health could actually hurt the citizens rather than influence the government. The case of Belarus actually suggests that in the conditions of frozen relations with the EU, the civil society is in an even more precarious position vis-à-vis the authorities as it not only cannot rely on external assistance for performing actions for the benefit of the public, but it may be a target of a negative publicity campaign. This reservation does not apply as much to cases where payments are delayed as a result of the partner countries' failure to implement the already-concluded agreements, in particular in the areas of economic reforms and governance, as the successful pressure from the EU and the international financial institutions on the Ukrainian government has shown.